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NOTES OF CASES.

CORPORATIONS—CONSPIRACY TO DEPRESS STOCK—ACTION—PROPER PLAINTIFF.—An action by a stockholder in a railroad company for damages caused by depreciation in the value of his stock against parties whom, he alleges, conspired to wreck the company and obtain it for their own purposes, by securing control of a majority of the stock and then purposely diverting its business, until it defaulted in the payment of interest on its bonds, resulting in foreclosure, should be brought by the plaintiff, not as an individual stockholder, but as a stockholder in behalf of the company: so that the claims of all stockholders for damages on account of the conspiracy might be determined in the action and the rights of its creditors protected. *Niles v. N. Y. C. & H. R. Ry. Co.* (Ct. App. N. Y.), 30 N. Y. Law Journal, 193. Quoting *Flynn v. R. R.*, 158 N. Y. 493, as follows: "While courts cannot compel directors or stockholders, proceeding by the vote of a majority, to act wisely, they can compel them to act honestly, or undo their work if they act otherwise. Where a majority of the directors, or stockholders, or both, acting in bad faith, carry into effect a scheme which, even if lawful upon its face, is intended to circumvent the minority stockholders and defraud them out of their legal rights, the court may interfere and remedy the wrong. Action on the part of directors or stockholders, pursuant to a fraudulent scheme designed to injure the other stockholders, will sustain an action *by the corporation*, or, if it refuses to act, *by a stockholder in its stead for the benefit of all the injured stockholders.*"

RAILROADS—TICKET BROKERS—EQUITY JURISDICTION.—The plaintiff brought an action against sixty independent ticket brokers, carrying on business at Buffalo, to restrain them from dealing in the unused portions of railroad tickets issued by the plaintiff at low special rates to various individuals, which upon their face appeared to be non-transferable. *Held*, that the action was not maintainable in equity.

1. The plaintiff was not bound to honor the tickets if presented by any person other than the original purchaser, and, therefore, had it in its power to protect itself against the unauthorized use of such tickets.

2. The mere sale or purchase of the tickets by the defendants did not concern the plaintiff in any degree; it having no interest in the tickets as such.

2. A court of equity cannot interpose to decree the cancellation of an instrument on the theory that it may be fraudulently used by some unknown person.

4. The joinder of sixty independent ticket brokers in a single action renders the complaint objectionable on the ground of multifariousness.

5. The allegation that the defendants' acts were maliciously, fraudulently and illegally committed and as a result of a conspiracy, stated no fact which would warrant equitable interference.

6. It is no part of the duty of a court of equity to assume evil; it has

fulfilled its functions when it has found a remedy for actual or threatened wrong for which the law furnished no adequate redress, and it cannot properly take jurisdiction where it is not shown that the wrong which is feared will probably result from the wrongful acts of the parties who are before the court, without the intervention of persons to the court unknown. *N. Y. &c. R. Co. v. Reeves* (Ct. App. N. Y.), 30 N. Y. Law Journal, 287.

RECEIVERS—ACTIONS AGAINST—STATE AND FEDERAL COURTS.—An action brought in the state court against receivers of a railroad company, appointed by a federal court, may proceed to final judgment against the receivers, notwithstanding they had, in the meantime, been discharged and the road sold under foreclosure, the decree of sale in the federal court containing a provision that the purchaser would take the property subject to all obligations and liabilities of the receivers. While the Code of Civil Procedure (sec. 756) authorizes, in such a case, substitution of the purchaser as party defendant, yet when neither party has asked for substitution the action may proceed to judgment as against the receivers, and the purchaser, by the terms of sale, will be bound by it.

The provision of the United States statute authorizing actions to be commenced in a state court against receivers appointed by the federal court, without first obtaining leave of the latter court, and that "such suits shall be subject to the general equity jurisdiction of the court in which such receiver was appointed," does not contemplate reserving to the federal court exclusive jurisdiction to establish claims to the fund after sale of the property and discharge of the receiver; but simply that all claims, in whatever court they are established, may be disposed of at the foot of the decree with reference to the rights of all the creditors. *Baer v. McCullough, Receiver* (Ct. App. N. Y.), 30 N. Y. Law Journal, 223.

CONTRACTS.—FRAUDULENT PROCUREMENT—RELIEF AT LAW.—One who has been fraudulently induced by an agent of a telephone company to execute a release under seal of the right to construct and maintain a telephone line in the highway along his property, the agent representing that the paper was only a receipt for \$1 paid him for trimming one of his trees, is not precluded by his own negligence in failing to read the paper before signing it, from thereafter maintaining an action of ejectment against the company to compel it to remove the poles and for damages.

The plaintiff is not obliged to appeal to a court of equity for relief against his deed, but may avoid it, when set up by the company in defense of his action of ejectment, by proof of the fraud in its execution.

Nor is he obliged, in such a case, to return the consideration paid him on executing the instrument. *Wilcox v. American Telephone etc. Co.* (Ct. App. N. Y.), 30 N. Y. Law Journal, 261. Citing *Albany City Sav. Instn. v. Burdick*, 87 N. Y. 40.

Upon the question of practice, the court said, per Cullen, J:

"The practice adopted by the plaintiff was entirely proper. He was not obliged to appeal to a court of equity for relief against the deed, but when